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July 6, 1992

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MAIL BRANCH

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

ORIGINAL FILE

In re: In the Matter of Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77 - COMMENTS OF MIDWEST INDEPENDENT COIN PAYPHONE ASSOCIATION, Our file #92-306.26

Dear Ms. Searcy:

Enclosed are the original and nine (9) copies of the Comments of Midwest Independent Coin Payphone Association which I am filing in the above rulemaking.

Very truly yours,

William M. Barvick

William M. Barvick

WMB:mb
Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 10554

In the Matter of	)	
Billed Party Preference	)	**CC Docket No. 92-77**
for 0+ InterLATA Calls	)	

COMMENTS OF MIDWEST INDEPENDENT COIN PAYPHONE ASSOCIATION

The Midwest Independent Coin Payphone Association (Midwest) is an association of private payphone providers in the State of Missouri. It is submitting these Comments in response to the Commission's Notice of Proposed Rulemaking.

Introduction

Midwest will express its concerns regarding the proposed rule by looking at its potential impact on the principal categories of persons affected by the rule. These include the following:

1. End users of pay phone service
2. Private pay phone providers
3. Local exchange companies (LECs)
4. Interexchange carriers (IXCs)
5. Operator service providers (OSPs)
6. Owners of the premises where pay phones are located
7. General telecommunications services ratepayers

Although the notice is not clear in how far the rule will ultimately go, these comments are based on the assumption that if Billed Party Preference (BPP) is adopted, it will, at a minimum, be applied to all 0+ calls originating at private pay phones and at public pay phones.

Owners of the Premises where Pay Phones are Located

As one reads the Notice of Rulemaking, it is apparent that the Commission is sensitive to the impact of the proposed rule on a number of entities. However, one group that receives virtually no consideration is the owners of the businesses where pay phones are located.

At the present time the coin rates that are allowed for local calling do not cover the cost of local calls. The payment received by the location owner for the use of his premises comes from the operator services revenues. The adoption of BPP will cut off the flow of commissions from OSPs to pay phone companies. This loss of income will necessarily result in the reduction or the elimination of commissions currently earned by location owners. The Notice fails to consider what their reaction might be in that event.

The advent of competition and the introduction of commissions to location owners has resulted in a rapid expansion of pay phone locations. Conservative estimates indicate that at least 20% of private pay phone placements are at locations that previously did not have a pay phone.

The current eagerness of businesses to have a pay phone on the premises should not disguise the fact that a pay phone is not an unmixed blessing to a location owner. Prior to competition, the number of public pay phones was actually decreasing in some jurisdictions. In Missouri, the Public Service Commission thought it necessary to adopt a rule that required each local exchange company to have at least one pay phone in each local exchange.

The pay phone requires space that could be used for other profit making opportunities. It may attract people who are there only to use the phone and not to purchase any service, and it may attract people that the premises owner considers less than desireable. If the phone is not a profit center, the location owner has no incentive to allow it on his premises. If he chooses to have it removed, then the benefit to the public from its presence will be lost.

The current delivery system involving location owners, private pay phone providers and operator service providers depends upon the contribution and cooperation of each participant. Action by this Commission that would cause the location owner to drop out of the system will adversely affect the general public, and it would also financially destroy the private pay phone provider.

The Commission ignores the interests of location owners at the risk of severely reducing the service that is available to the general public, and the risk of stranding the substantial investment of private pay phone companies.

Any rule dealing with BPP must take into account the need to remunerate location owners. This is currently being taken care of by the market. With the introduction of BPP there will be no market and some type of Commission intervention will be required.

Private Pay Phone Providers

Private pay phone providers have benefited the public by increasing the number of pay phone locations, and by introducing new pay phone technology.

Private pay phone providers have an investment in pay phone equipment, and they have ongoing operation and maintenance expenses. If that investment is not recovered and those expenses are not met, they will obviously go out of business.

BPP will eliminate an important source of private pay phone income, and the Notice does not indicate of how it will be replaced.

The revenues from operator services must be replaced or the private pay phone industry will simply cease to exist. One alternative would be to compensate the private pay phone operator for each call made from the pay phone. While that is a straightforward solution, it may not be practical.

Replacing the revenue flow from operator service providers will not be a simple matter because it involves issues generated by the separate practices of fifty different states, and by the separate tariffs of the various local exchange companies in each state.

In Missouri, the Public Service Commission has mandated a $.25 ceiling on local coin calls. Twenty-five cents does not cover the cost of a local call, and the difference must be made up in charges for operator assisted calls. The amount of the difference that must be made up varies from one local exchange company to another. For example, the monthly cost of dial tone to a pay phone may vary from $20.00 to $90.00. A rate of compensation for BPP calls that would be adequate under a $20.00 cost structure would be clearly inadequate under a $90.00 cost structure. The attempt to set one rate for the entire country would be impractical. It could lead to adequate or excessive earnings in some exchanges while forcing the discontinuance of service in others.

At the present time market forces set these rates and permit much needed flexibility. If the market rates are to be replaced by rates set by the FCC, the administrative problems will be formidable.

General Telecommunications Service Rate Payers

While we have no data on the number of people who regularly use pay phones to make operator assisted calls, common sense indicates that they constitute a minuscule portion of the overall telephone use in this country. They are typically business users who travel.

The mass of telecommunications users are indifferent to the subject of this rulemaking, however, they do have an interest in it. Their interest is in not being forced to bear the cost of providing BPP to that small segment of the population to whom it is a benefit.

We are not familiar with the current mechanisms that are available to the Commission to prevent LECs from imposing the costs of BPP on their captive monopoly ratepayers. However, this is a matter that should receive the Commission's attention.

The LEC handling of calls is a service that will be offered to both LEC pay phones and private pay phones. Experience has demonstrated that in other contexts LECs have used similar situations to cross-subsidize. The method is quite simple. The LEC calculates an incremental cost of the service and then offers it to the outside world at a markup above incremental cost. It then offers the same service to itself at no cost or at the incremental cost. Since the incremental cost does not include any joint and common costs, these are all borne by the captive customer of the monopoly services.

In adopting BPP it is important that the Commission put in place sufficient safeguards to insure that the cost of the deployment of the BPP technology is borne solely by the users of that technology, and is not shifted to the captive ratepayers of local exchange companies.

End Users of Pay Phone Services

The Notice recognizes that the end result of BPP, namely allowing the end user to select his carrier of choice, is already available today. BPP will not produce a new service to end users. It will potentially make an existing service more convenient.

In considering whether this is a public benefit from the end user's perspective, cost and convenient access to pay phones will be two major considerations. Since BPP will eliminate a choice that now exists, the end user might be faced with substantially higher costs than those charged under existing alternatives and with no choice but to pay them. While we have no information on the cost of BPP, this is a matter that must receive the utmost attention from the Commission.

As noted above, if location owners opt out of the system, end users will also be faced with fewer choices of pay phone locations as a result of the adoption of BPP. The cost of searching for a pay phone could exceed any potential savings from the introduction of BPP.

Interexchange Carriers

The IXCs will no doubt give an adequate comment on their own behalf. We would just like to note one problem that BPP can cause for small IXCs.

Many resellers do not offer operator services. BPP would force them to either make an arrangement with an operator service provider or run the risk of losing customers to companies that provide operator services. These resellers provide valuable alternatives to end users, and their presence acts as a restraint on the prices of the large IXCs. If the disruptions in their markets and customer relations that one can anticipate from the introduction of BPP should occur, it could be the death knoll for this small and important part of the telecommunications industry.

Local Exchange Companies

BPP was originally proposed by a LEC. It should come as no surprise that LECs are the only entities for whom BPP is an unmixed blessing.

LECs are guaranteed an increase in business at rates that are guaranteed to be compensable while the business and financial impact on other entities is uncertain, unclear and quite likely adverse.

BPP has the additional advantage from the LEC perspective of creating a new central office monopoly service. In addition to the opportunities for financial gain, this will also offer opportunities for anti-competitive conduct. The LEC can handle network design changes so that they discriminate in favor of LEC pay phones and against private pay phones. The pricing of the new services can be manipulated to increase the gap between the cost of public pay phone service and the cost of private pay phone service.

Private pay phone providers have been attempting to free themselves from dependence on LEC central office monopoly services. BPP will create a new dependency where none previously existed.

Conclusion

Midwest does not believe that BPP will be in the public interest unless a number of substantial problems are addressed. The reaction of location owners to the changes that the rule will produce is a significant problem. Adequate compensation for the service provided by private pay phone providers is another. Until these matters are addressed, the Commission should not go forward with the proposed rule.

Respectfully submitted,

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